

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yasushi YAMADE

Application No.: 10/073,150

Confirmation No.: 5457

Filed: February 13, 2002

Art Unit: 2153

For: DATA TRANSMISSION DEVICE, METHOD
AND PROGRAM FOR PROVIDING A
UNIFIED TRANSMISSION METHOD IN
MULTI-DESTINATION DELIVERY (as
amended)

Examiner: S. M. Reilly

**SUPPLEMENTAL APPEAL BRIEF IN RESPONSE TO NOTICE OF NON-COMPLIANT
APPEAL BRIEF UNDER 37 CFR 41.37**

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Notification of Non-Compliant Appeal Brief dated July 30, 2007,
appellant submits the following amended Appeal Brief.

As required under § 41.37(a), this brief is filed more than two months after the Notice of
Appeal filed in this case on September 22, 2006, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2), and any required petition for extension of time for
filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF
APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37
and M.P.E.P. § 1206:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims Appendix
- IX. Evidence Appendix
- X. Related Proceedings Appendix

Appendix A Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Minolta Co., Ltd.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 11 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 12
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 1-11
4. Claims allowed: none
5. Claims rejected: 1-11

C. Claims On Appeal

The claims on appeal are claims 1-11

IV. STATUS OF AMENDMENTS

Appellant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 6 and 9 are the only independent claims. Claim 1 recites a data transmission device comprising: transmitting means (see Fig. 1, paragraph [0038] and paragraph [0068]) having a first transmission mode (paragraph [0041]) in which a file is sent attached to an e-mail message, a second transmission mode (paragraph [0041] and Fig. 1) in which a file is sent to a file transfer server (paragraph [0041] and Fig. 1), and a mixed transmission mode (paragraph [0042]) in which a file is sent to a file transfer server (paragraph [0041] and Fig. 1) and an e-mail message having a text string including address information of the file transfer server is sent; and transmission judging means (paragraphs [0041] and [0098]) for determining whether or not the destinations include those for which the first transmission mode as well as those for which the second transmission mode are designated during multi-destination delivery in which multiple destinations are designated, wherein when the transmission judging means judges that the destinations for the first and second transmission modes are included, the transmitting unit executes the mixed transmission mode (paragraph [0043]) in which an e-mail message having a text string including address information of the file transfer server designated in the second mode is sent to the destination designated for the

first mode (paragraph [0042]), where no file is attached to the e-mail, and a file designated for the second mode is sent to the file transfer server (paragraph [0044]).

Claim 6 recites a method for use with a data transmission device (see element 10 in Fig. 1 and paragraph [0038], comprising: receiving an instruction to designate for each destination one of a first transmission mode (paragraph [0041]) in which a file is sent attached to an e-mail message, a second transmission mode (paragraph [0041]) in which a file is sent to a file transfer server and a mixed transmission mode (paragraph [0042]) in which a file is sent to a file transfer server (paragraph [0041] and Fig. 1) and an e-mail message having a text string including address information of the file transfer server is sent; determining during multiple-destination delivery in which multiple destinations are designated whether or not the destinations include those for which the first transmission mode is designated as well as those for which the second transmission mode is designated (see paragraphs [000095-0098] and Fig. 18); and executing the mixed transmission mode when the destinations for the first and second transmission modes are included (see paragraph [0098]), wherein an e-mail message having a text string including address information of the file transfer server designated for the second mode is sent to the destination designated for the first mode (paragraph [0042]), where no file is attached to the e-mail and a file designated in the second mode is sent to the file transfer server (paragraph [0044]).

Claim 9 recites a program product stored on a computer readable medium for a mail server, said program product including instructions to execute the following steps: receiving an instruction to designate for each destination one of a first transmission mode (paragraph [0041]) in which a file is sent attached to an e-mail message, a second transmission mode (paragraph [0041]) in which a file is sent to a file transfer server (paragraph [0041] and Fig. 1) and a mixed transmission mode (paragraph [0042]) in which a file is sent to a file transfer server and an e-mail message having a text string including address information of the file transfer server is sent;

determining during multiple-destination delivery in which multiple destinations are designated whether or not the destinations include those for which the first transmission mode is designated as well as those for which the second transmission mode is designated (see paragraphs [000095-0098] and Fig. 18); and executing the mixed transmission mode when the destinations for the first and second transmission modes are included (see paragraph [0098]), wherein an e-mail message having a text string including address information of the file transfer server designated for the second mode is sent to the destination designated for the first mode (paragraph [0042]), where no file is attached to the e-mail and a file designated in the second mode is sent to the file transfer server (paragraph [0044]).

Appealed claim 1 recites means plus function as permitted by 35 USC 112, sixth paragraph. In compliance with 37 CFR 41.37(c)(v), each claimed function is identified below and set forth with reference to the specification. While descriptions of the functions appear throughout the specification, appellant has attempted to identify representative sections of the specification.

Claim 1 recites a transmitting means. Descriptions of the transmitting means may be found in Fig. 1, at paragraph [0038] and paragraph [0068].

Claim 1 also recites a transmission judging means. Descriptions of the transmission judging means may be found at paragraph [0041] and at paragraph [0098].

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-11 stand finally rejected under 35 USC 103(a) as being unpatentable over Kakimoto, U.S. Patent No. 6,775,688 and Ramaley, U.S. Patent No. 6,687,741.

VII. ARGUMENT

A. Both Kakimoto and Ramaley fail to teach or suggest replacing the first transmission mode with the mixed transmission when it is determined that the multiple destinations include those for which the first and second transmission modes are designated.

In the final Office Action dated May 22, 2006, the Examiner admitted that Kakimoto fails to teach or suggest replacing the first transmission mode with the mixed transmission when it is determined that the multiple destinations include those for which the first and second transmission modes are designated. The Examiner asserted that, instead, Kakimoto's system replaces the e-mail attachment transmission mode, which the Examiner asserted corresponds to the claimed first transmission mode, with a file upload and link transmission mode, which the Examiner asserted corresponds to the claimed second transmission mode, when the traffic load is heavy. The Examiner asserted that it was well known in the art to replace an e-mail attachment sending mode with a file upload and e-mail link sending mode, when both e-mail attachment and file upload sending modes are selected as evidenced by Ramaley.

With regard to Ramaley, the Examiner asserted that Ramaley teaches that users can send files using various modes of transmission, for example, as an e-mail attachment, to a file transfer server and to a file transfer server and as a link in an e-mail (citing col. 7, line 30 to col. 8, line 17). The Examiner asserted that, in Ramaley's system, when a user selects to send a file as an attachment and the file is selected to be saved to a file transfer server, the system automatically sends the file using a link in an email as opposed to an email attachment. The Examiner also asserted that Ramaley discloses that it is preferable to send files as links in e-mails when the files are going to be stored in shared drives since the recipient is able to access the shared file even after it has been subsequently modified by the send.

Appellant respectfully submits that Ramaley does not teach that which the Examiner asserts.

Ramaley teaches a method for determining whether to send a file as a link, as an attachment or as both a link and an attachment. Ramaley *does not* discuss multi-destination delivery, but rather determines the way in which the file is to be delivered to a recipient (see abstract).

Further, Ramaley describes the method of determining the mode of delivery in Fig. 3 and at col. 7, line 30 to col. 8, line 17. As seen in Fig. 3, after the "send" command is issued, a determination is made in step 304 as to whether the file has been saved. If the file has been saved, a determination is made in step 312 as to whether the file has been saved in a shared disk location. If it is determined that the file is not stored in a shared disk location, the file is sent as an attachment (step 310). If it is determined that the file is saved in a shared disk location, a registry is checked for a registry setting corresponding to a predefined "send preference," which may indicate that the sender desires to send all shared files only as links, or as both links and attachments. Ramaley discloses that such a send preference may be defined by the sender and stored as a registry setting (col. 8, lines 7-8).

Ramaley essentially determines the mode of delivery either by sender preference or by default depending on whether the file is stored in a shared disk location. Ramaley does not, however, teach or suggest the claimed "transmission judging means for determining whether or not the destinations include those for which the first transmission mode as well as those for which the second transmission mode are designated during multi-destination delivery in which multiple destinations are designated" because Ramaley is totally unconcerned with the designated delivery mode for a particular destination. Rather, Ramaley determines the mode of delivery based on the

sender's preference or by default if the file is not stored in a shared disk location. Further, Ramaley does not deal with multi-destination delivery, as claimed.

B. The Examiner has mischaracterized what is taught by Ramaley.

The Examiner's comment at pg. 3 of the Office Action dated May 22, 2006, "it was well known in the art at the time of the invention to replace an e-mail attachment sending mode with a file upload and e-mail link sending mode, when both e-mail attachment and file uploads [sic] sending modes are selected, as evidenced by Ramaley" mischaracterizes what is taught by Ramaley. Ramaley does not consider the situation in which both e-mail attachment and file upload sending modes are selected because Ramaley actually teaches the selection of one of three modes, sending a file as a link, sending a file as an attachment or sending a file as both a link and an attachment. One, and only one, of these three modes is selected. The Examiner portrays Ramaley as selecting two different delivery modes, which is simply not true. In addition, Ramaley does not even disclose a mode of delivery which includes sending the file to a file transfer server, as claimed.

In light of the foregoing, claims 1-11 are over the combination of Kakimoto and Ramaley, and the Examiner's rejection thereof should be overturned.

VIII. CLAIMS APPENDIX

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

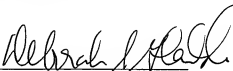
No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

X. RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above, or copies of decisions in related proceedings are not provided, hence no Appendix is included.

Dated: August 30, 2007

Respectfully submitted,

By 

Deborah S. Gladstein

Registration No.: 43,636
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 300
McLean, Virginia 22102
(703) 760-7753

APPENDIX A**Claims Involved in the Appeal of Application Serial No. 10/073,150**

1. A data transmission device comprising:

transmitting means having a first transmission mode in which a file is sent attached to an e-mail message, a second transmission mode in which a file is sent to a file transfer server, and a mixed transmission mode in which a file is sent to a file transfer server and an e-mail message having a text string including address information of the file transfer server is sent; and

transmission judging means for determining whether or not the destinations include those for which the first transmission mode as well as those for which the second transmission mode are designated during multi-destination delivery in which multiple destinations are designated, wherein

when the transmission judging means judges that the destinations for the first and second transmission modes are included, the transmitting unit executes the mixed transmission mode in which an e-mail message having a text string including address information of the file transfer server designated in the second mode is sent to the destination designated for the first mode, where no file is attached to the e-mail, and

a file designated for the second mode is sent to the file transfer server.

2. A data transmission device according to claim 1, further comprising data generating means for generating image data, and

wherein the file to be sent comprises the image data generated by the data generating means.

3. A data transmission device according to claim 1, further comprising an image reader for reading an image of an original document and outputting image data, and

wherein the file to be sent comprises the image data output by the image reader.

4. A data transmission device according to claim 1, wherein the file transfer server is an FTP server, and the address information includes an IP address of the FTP server and a name of the folder in which the file is to be stored.

5. A data transmission device according to claim 1, wherein the file transfer server has an access authority authentication function and the text string of the e-mail message in the third transmission mode includes a user ID and password for authentication purposes.

6. A method for use with a data transmission device, comprising:
receiving an instruction to designate for each destination one of a first transmission mode in which a file is sent attached to an e-mail message, a second transmission mode in which a file is sent to a file transfer server and a mixed transmission mode in which a file is sent to a file transfer server and an e-mail message having a text string including address information of the file transfer server is sent;

determining during multiple-destination delivery in which multiple destinations are designated whether or not the destinations include those for which the first transmission mode is designated as well as those for which the second transmission mode is designated; and

executing the mixed transmission mode when the destinations for the first and second transmission modes are included, wherein an e-mail message having a text string including address information of the file transfer server designated for the second mode is sent to the destination designated for the first mode, where no file is attached to the e-mail and a file designated in the second mode is sent to the file transfer server.

7. A method according to claim 6, wherein the file transfer server is an FTP server, and the address information includes an IP address of the FTP server and a name of the folder in which the file is to be stored.

8. A method according to claim 6, wherein the file transfer server has an access authority authentication function and the text string of the e-mail message in the third transmission mode includes a user ID and password for authentication purposes.

9. A program product stored on a computer readable medium for a mail server, said program product including instructions to execute the following steps:

receiving an instruction to designate for each destination one of a first transmission mode in which a file is sent attached to an e-mail message, a second transmission mode in which a file is sent to a file transfer server and a mixed transmission mode in which a file is sent to a file transfer server and an e-mail message having a text string including address information of the file transfer server is sent;

determining during multiple-destination delivery in which multiple destinations are designated whether or not the destinations include those for which the first transmission mode is designated as well as those for which the second transmission mode is designated; and

executing the mixed transmission mode when the destinations for the first and second transmission modes are included, wherein an e-mail message having a text string including address information of the file transfer server designated for the second mode is sent to the destination designated for the first mode, where no file is attached to the e-mail and a file designated in the second mode is sent to the file transfer server.

10. The program product of claim 9, wherein the file transfer server is an FTP server, and the address information includes an IP address of the FTP server and a name of the folder in which the file is to be stored.

11. The program product of claim 9, wherein the file transfer server has an access authority authentication function and the text string of the e-mail message in the third transmission mode includes an user ID and password for authentication purposes.